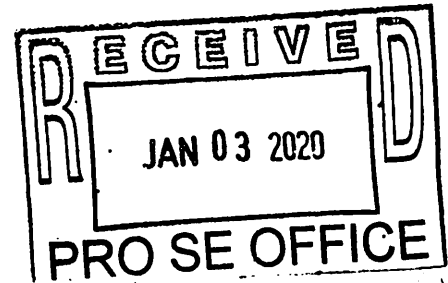


ORIGINAL



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

Yingqian Guo

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

Happy BB Family Care Service Inc

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Complaint for a Civil Case

Case No. **CV 20-00045**

(to be filled in by the Clerk's Office)

BRODIE, J.

Jury Trial: ☒ Yes ☐ No
(check one)

TISCIONE, M.J.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	<u>Yugian Guo</u>
Street Address	<u>22 Glendale Ave</u>
City and County	<u>Shrewsbury</u>
State and Zip Code	<u>MA 01545</u>
Telephone Number	<u>9783498874</u>
E-mail Address	<u>carahguo988@gmail.com</u>

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	<u>Happy BB Family Care Service Inc.</u>
Job or Title (if known)	
Street Address	<u>4650 Bowne street</u>
City and County	<u>Flushing</u>
State and Zip Code	<u>New York 11355</u>
Telephone Number	<u>11355</u>
E-mail Address (if known)	

Defendant No. 2

Name	
Job or Title (if known)	
Street Address	
City and County	

State and Zip Code _____
Telephone Number _____
E-mail Address _____
(if known) _____

Defendant No. 3

Name _____
Job or Title _____
(if known) _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address _____
(if known) _____

Defendant No: 4

Name _____
Job or Title _____
(if known) _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address _____
(if known) _____

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? (*check all that apply*)

☒ Federal question

☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

B. If the Basis for Jurisdiction Is Diversity of Citizenship

1. The Plaintiff(s)

a. If the plaintiff is an individual

The plaintiff, (*name*) _____, is a citizen of
the State of (*name*) _____.

b. If the plaintiff is a corporation

The plaintiff, (*name*) _____, is incorporated
under the laws of the State of (*name*) _____,
and has its principal place of business in the State of (*name*) _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)

a. If the defendant is an individual

The defendant, (*name*) _____, is a citizen of
the State of (*name*) _____. Or is a citizen of
(*foreign nation*) _____.

b. If the defendant is a corporation

The defendant, (name) _____, is incorporated under the laws of the State of (name) _____, and has its principal place of business in the State of (name) _____. Or is incorporated under the laws of (foreign nation) _____, and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

On Oct 5th 2019, the plaintiff signed a service contract with the defendant for the caring of her future new burn baby and paid \$1000 deposit to the defendant. Later, the plaintiff found that the defendant is not eligible to provide new burn baby care service and violates the regulations for commercial new burn baby care. In addition, the poor caring conditions provided by the defendant caused 4 new burn

babies suffered serious respiratory tract virus infections and hospitalized in Nov. 2019. Roughly 50% of new born babies served by the defendant got the symptoms at different levels around that time frame. Surprisingly, the defendant has not responded to plaintiff's concerns and taken no reaction to improve the caring conditions. In order to avoid the plaintiff's new born for such infection, the plaintiff decided to cancel the service before bringing her new born in but the defendant rejected to return the deposit. The plaintiff request the full refund of the deposit since the defendant is not eligible for commercial new born baby care.

In addition, food service for the plaintiff was also included in the contract but the defendant is not eligible to provide commercial food service as well.

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

1. Court fee paid : \$ 400

2. Deposit amount : \$ 1000

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 01/03, 2020

Signature of Plaintiff

Printed Name of Plaintiff

Yugian Guo

Yugian Guo

Yugian Guo

Exhibit A: Caring condition provided by the defendant for new burn babies

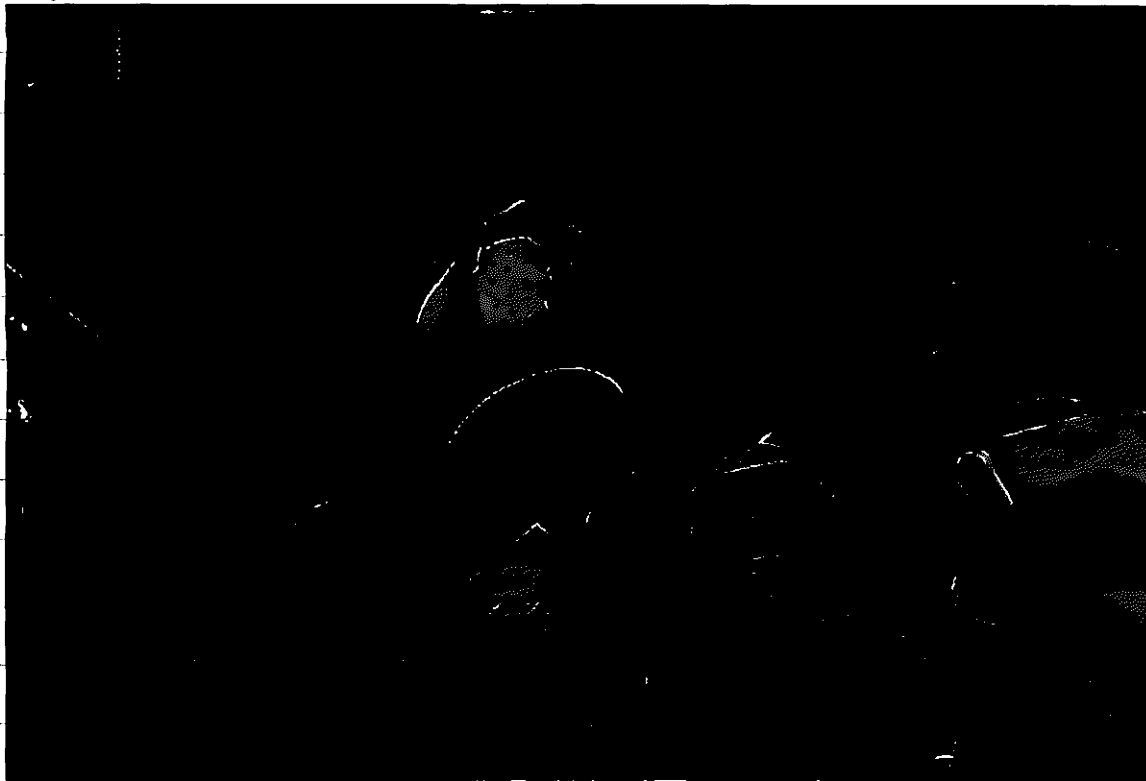


Exhibit B: 4 hospitalized babies caused by defendant's service



B

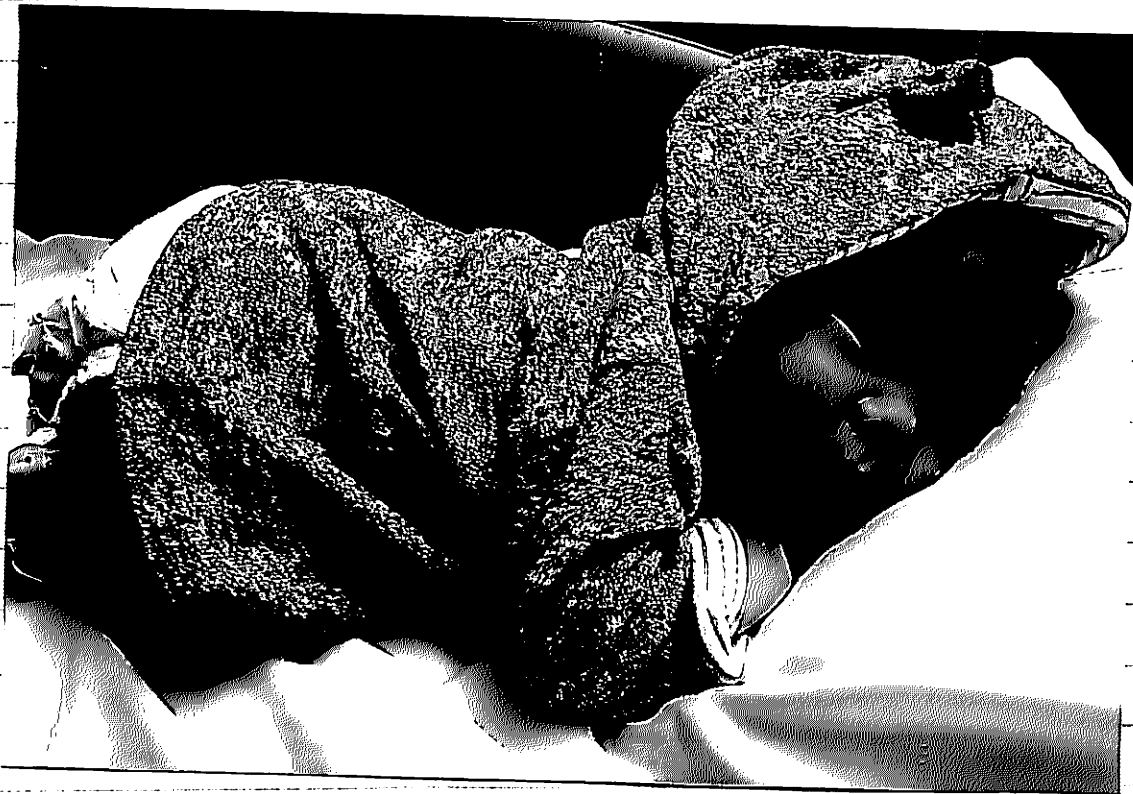
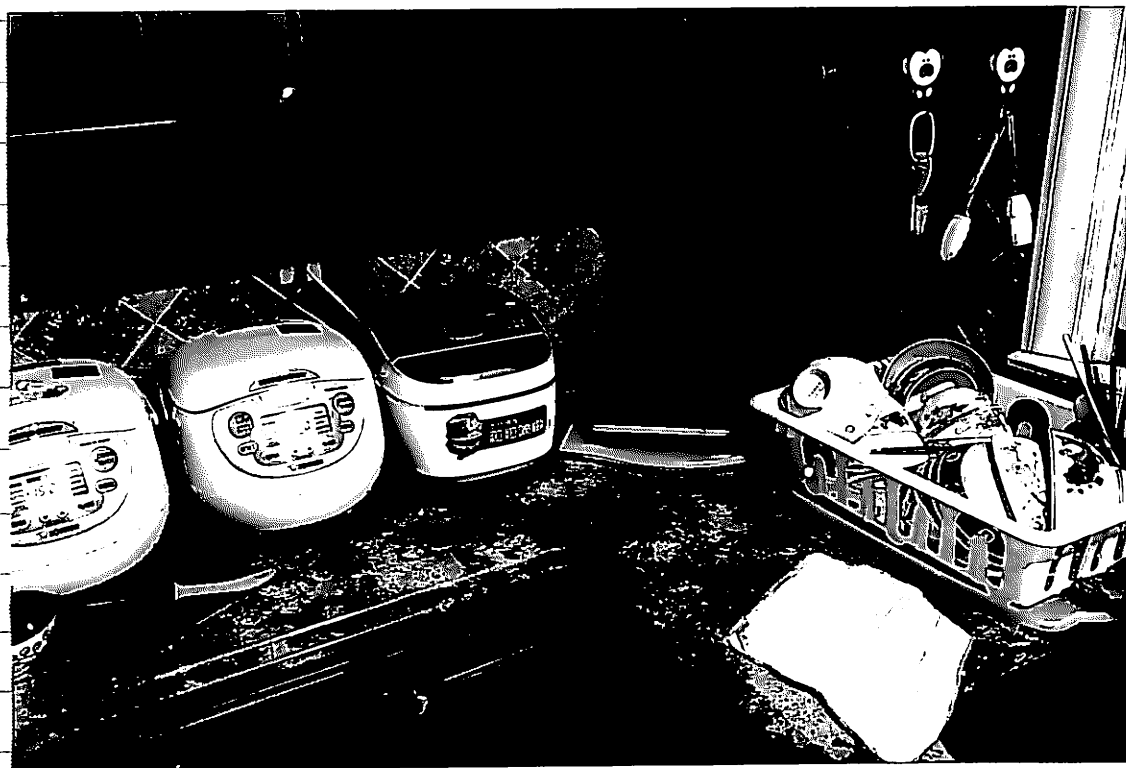
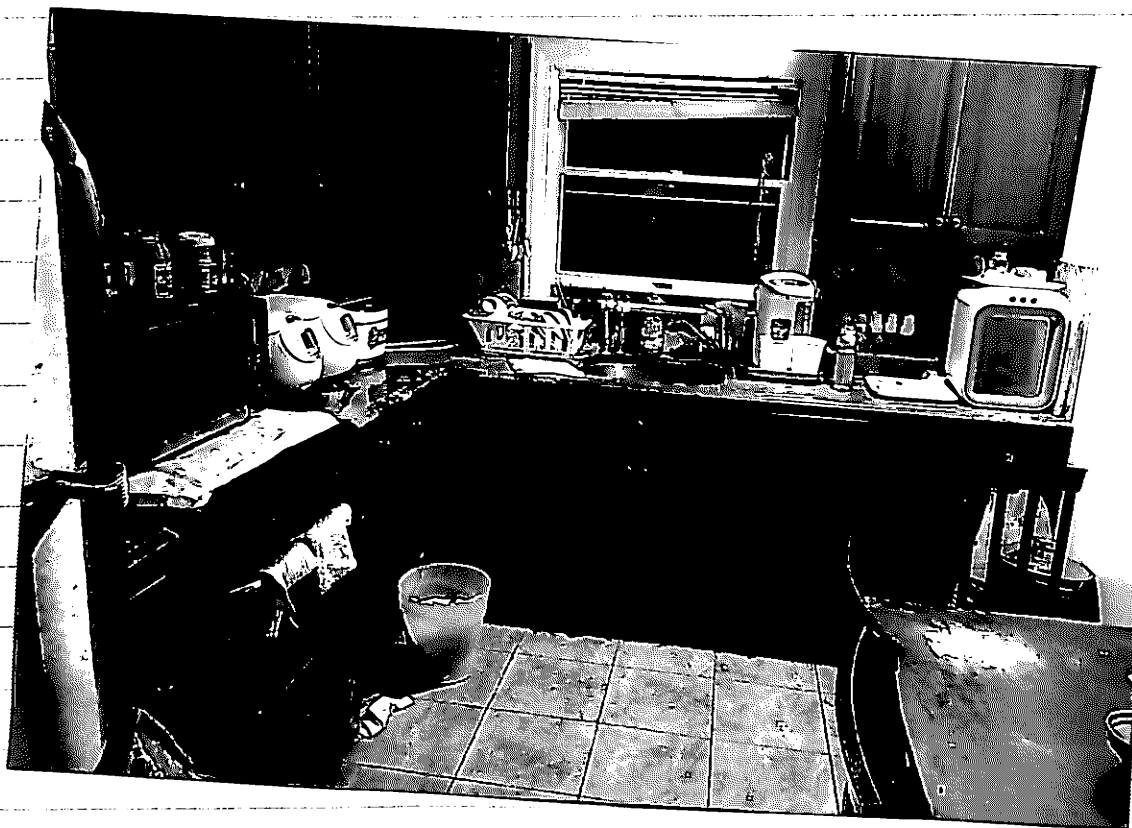


Exhibit C: Food service conditions provided by the defendant



C



HAPPY BB FAMILY CARE SERVICE INC.

MANAGER:

协议书

甲方: Gao, Yaqian

证件号: #S96633427

乙方: Happy BB Family Care Service Inc.

Yugan Gao
10/05/19

甲方自愿委托乙方办理产前或产后服务, 双方本着平等、公平原则签订服务协议, 具体如下:

一、 服务总价 (大写): 5100 美金

二、 甲方预产期时间: 12/06/2019. (第三胎) (预估11/29/19生, 01/18/20生)

三、 标准服务内容

本协议仅包含如下服务, 如有调整, 在协议的其他地方予以说明, 以下为在美国服务项目:

全程月子 双人间-标准 (共用/独立卫生间), 服务内容包括:

A. 45天的月子吃住, 一日营养进补 5 餐 (3 个正餐, 两份点心.)。

B. 月子期间 24 小时专业看护 BABY。服务期内宝宝日用物品须自备。

C. 由月子中心安排, 妈妈每周清洗衣服 1 次。

D. 经月子中心审查允许后, 家属需提供身份证件复印件才可陪住, 每天\$35/人, 先付后住, 由月子中心安排, 可安排三餐。

E. 提供无线网络使用。

F. 0天的待产吃住, 一日营养餐进补 3 餐。待产收费每日 0 美金, 包月 30 天为

0 美金。(注意: 住院期间算入待产时间, 妈妈出院第一天为月子时间的第一天。)

四、 费用支付方式:

1. 甲方于 2019 年 10 月 5 日已交定金 1000 美金。甲方入住月子中心当日, 支付剩下的全部费用 4100 美金。如甲方提前预产期 30 天, 则视为早产, 需额外补交给乙方早产儿特殊护理费每日 15 美金。

2. 月子如需超出合同服务天数, 甲方须提前跟乙方预约, 乙方如同意可以安排延期, 按 \$113/天进行计算, 先付后住。

3. 全程住宿期间如提前离开, 或未按合同入住月子中心, 所有费用不能退回。

五、 其他说明:

1. 甲方因身体原因出现小产、流产等意外, 经核实后, 在甲方遵守本协议的情况下, 未发生费用退还给甲方 (如需退款, 仅限此理由/NO REFUND!)。

3. 甲方如生双胞胎, 产后每 30 天加收\$1800。如少于 30 天每天收费\$80。

4. 甲方如需协议以外的服务, 另行协商收费价格。

5. 甲方回国后的后续服务, 另行协商收费价格。

六. 免费条款:

1. 如遇不可抗力的情况 (如: 自然灾害、战争、政策改变等), 造成无法正常或顺利开展服务, 除已发生的费用外, 其余已收部分应退还给甲方。
2. 因甲方提供虚假资料, 在美国有不良记录或不配合办理相关手续等情况, 造成无法正常开展服务, 乙方视情况可终止对甲方的服务, 所发生的直接费用由甲方承担。
3. 如甲方及其家人在美国发生任何意外, 如在室内摔伤, 磕碰等意外情况出现, 一切与乙方无关, 均由甲方及其家人自行承担法律责任及相应后果。

本协议一式两份, 甲乙双方各持一份。

甲方住址: 22 Glendale Ave. Shrewsbury, MA. 01545

甲方联系电话: 978-427-9232

甲方紧急联系人: 吴先生 关系: 丈夫 联系电话: 978-349-8874

甲方: Yugian Guo

签字日期: 2019年10月5日

乙方:

HAPPY BB FAMILY CARE SERVICE INC.
MANAGER:

